

ESTTA Tracking number: **ESTTA524384**

Filing date: **03/01/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91205046
Party	Plaintiff Christina Sukljian
Correspondence Address	CHRISTINA SUKLJIAN 13 MANOR STREET ALBANY, NY 12207 UNITED STATES info@zela.com
Submission	Opposition/Response to Motion
Filer's Name	Christina Sukljian
Filer's e-mail	info@zela.com
Signature	/Christina Sukljian/
Date	03/01/2013
Attachments	Respondent's Opposition To Petitioner's Motion To Strike in Cancelation 92055279.pdf (46 pages)(3446628 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of U.S. Registration No. 2898544
Mark: GAGA PURE PLATINUM

-----X		
CHRISTINA SUKLJIAN,	:	
	:	
Opposer,	:	Opposition No. 91205046
	:	
v.	:	
	:	
ATE MY HEART, INC.,	:	
	:	
Applicant.	:	
ATE MY HEART, INC.,	:	
	:	
Petitioner,	:	Cancellation No. 92055279
	:	
v.	:	
	:	
CHRISTINA SUKLJIAN,	:	
	:	
Respondent.	:	
-----X		

**RESPONDENT’S OPPOSITION TO PETITIONER’S MOTION TO STRIKE
SUKLJIAN’S SURREPLY**

Respondent Christina Sukljian, hereby submits this Opposition reply to Petitioner’s Motion To Strike Respondent’s February 7, 2013 Reply To Petitioner Ate My Heart, Inc.’s Reply to Respondent’s Opposition to Petitioner’s Motion for Sanctions and Request for Judgment. Respondent Christina Sukljian further requests that Respondent’s Reply be considered and granted in its entirety because it is necessary and Petitioner’s Motion to Strike be denied.

PRELIMINARY STATEMENT

In Petitioner Ate My Heart, Inc's Reply brief, dated January 23, 2013, Ate My Heart, Inc. presents and raises new material facts and admissions that were not included in Petitioner's original Motion for Sanctions and Petition to Cancel and therefore Respondent Christina Sukljian's Reply to Petitioner's Reply is necessary under the circumstances of this Cancellation Proceeding No. 92055279 and should be granted.

ARGUMENT

RESPONDENT'S REPLY TO PETITIONER'S REPLY IS NECESSARY

In Petitioner's Petition to Cancel dated March 5, 2012 Petitioner claims that, *"Upon information and belief, Respondent is no longer using Respondent's Mark in commerce in connection with the goods covered in her registration, namely, cosmetics; namely, nail polish, lipstick, lip-gloss, eye-liner, lip-liner, eye shadow, face powder, blush, mascara in cl.3. Indeed, upon further information and belief, Respondent has not had valid trademark use on those items for several years."* In Petitioner's Motion for Sanctions dated December 20, 2012 Petitioner Ate My Heart, Inc. claims, *"Upon information and belief, at the time AMH filed the instant action, Respondent was not using its Mark in commerce in connection with the goods covered in her registration, namely cosmetics; namely, nail polish, lipstick, lip-gloss, eye-liner, lip-liner, eye shadow, face powder, blush, mascara in class 3. Upon information and belief, Respondent has not had valid trademark use of Respondent's Mark on those items for at least the past several years, if ever."* Petitioner claims in its initial Petition To Cancel, dated March 5, 2012, and in its Motion For Sanctions, dated December 20, 2012, that Respondent has not used its trademark for

at least the past several years prior to its Petition To Cancel. However, In Petitioner's reply brief dated January 23, 2013 Petitioner Ate My Heart, Inc. admits that Respondent's Registered Trademark GAGA PURE PLATINUM® was in fact in use in commerce and not abandoned for years prior to its Petition To Cancel. Petitioner states, in its reply, *"Once Lady Gaga rose to international fame and began receiving virtually unparalleled publicity, Ms. Sukljian decided to capitalize on Lady Gaga's fame and goodwill by commencing use of the mark in commerce."*

In its Reply Brief dated January 23, 2013, Ate My Heart, Inc. admits that Respondent's Trademark was in fact in use in commerce *prior* to its Petition To Cancel. Petitioner's statement demonstrates that Ate My Heart knew all along that Respondent's trademark was not abandoned and in use in commerce prior to its ill intended Petition To Cancel and conjured ludicrous claims in its attempt to gain unnecessary, unbridled access to Respondent's confidential and proprietary information, trade secrets, etc, in Petitioner's harassing attempt to intimidate Respondent into assigning all of Respondent's rights to its Trademark GAGA PURE PLATINUM® and websites over to newcomer Ate My Heart, Inc. The new material facts and admissions proffered by the Petitioner in its reply brief dated January 23, 2013 concerning Respondent's continuous use in commerce and non abandonment prior to its Petition To Cancel confirms Petitioner's lack of standing and validity in its Cancellation Proceeding and confirms Petitioner's ill intentions in this case.

Furthermore, during the course 1 year, from April 16, 2012 to date, Respondent Christina Sukljian has timely mailed in excess of 14 correspondences to Ate My Heart, Inc. in both of the consolidated proceedings. Ate My Heart, Inc. has received each and every one of Christina Sukljian's correspondences timely and without issue. Since April 16, 2012 to present date

Christina Sukljian has addressed each correspondence to Ate My Heart, Inc. in both of the consolidated proceedings as follows:

Ate My Heart, Inc.

c/o Pryor Cashman LLP

7 Times Square

New York, NY 10036

Christina Sukljian's correspondences have been mailed via The United States Postal Service Priority Mail with Signature Confirmation Proof of Delivery as well as United States Postal Service First Class Mail. Each and every one of Sukljian's mailings were delivered and received by Ate My Heart, Inc. timely and without issue. Copies of Christina Sukljian's USPS Proof of Mailings and USPS Signature Proof of Delivery Receipts are annexed here to as Exhibit A.

In Petitioner's Motion To Strike, dated February 14, 2013, Ate My Heart's attempt to *now* claim non-receipt after almost 1 year of timely mailings and timely receipt without issue is bewildering. As The Board can see, when Petitioner receives correspondences containing statement of facts that are not in Petitioner's favor, Petitioner's *new* claims of non-receipt, after 1 year of correspondence without issue, at this point, is absurd. In addition to Petitioner's *new* claims of non-receipt, Petitioner is also claiming that Respondent is not "serving" its papers correctly by not addressing the responsible attorneys. In fact counsel Nicole Kaplan claims that she is the single counsel dealing with Respondent. However, Respondent has not been dealing with only a single counsel from Ate My Heart, Inc. for the past year. In fact, Respondent Christina Sukljian has been dealing with many counsels from Ate My Heart, Inc. during the course of the year and has received correspondence from many different counsels from Ate My

Heart, Inc. including the following: Lisa M. Buckley

Philippe Zylberg

Nicole E. Kaplan

Brad D. Rose

Moir B. Shine

Janice Romeo Keller

Stephanie R. Kline

Copies of Petitioner's correspondences from its many counsels sent to Respondent are annexed here to as Exhibit B. As mentioned above, during the course of 1 year, from April 16, 2012 to date, Respondent Christina Sukljian has timely mailed in excess of 14 correspondences to Ate My Heart, Inc. in both of the consolidated proceedings exactly as follows and Ate My Heart, Inc. has received each and every one of Christina Sukljian's correspondences timely and without issue.

Ate My Heart, Inc.

c/o Pryor Cashman LLP

7 Times Square

New York, NY 10036.

CONCLUSION

It can be concluded that Petitioner's Motion for Sanctions and Petition to Cancel Proceedings lack any legal authority and validity and Respondent's Opposition To Petitioner's Motion To Strike be granted and Petitioner's Motion To Strike be denied in its entirety. Ate My Heart, Inc.'s admissions in its Reply dated January 23, 2013 demonstrates that Ate My Heart's

Petition To Cancel Proceedings are ill intended, moot, and should be dismissed in its entirety and judgment be granted in favor in Respondent Christina Sukljian in its entirety.

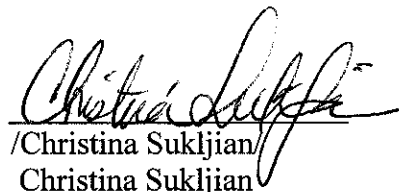
WHEREFORE, for the reasons set forth herein, Respondent Christina Sukljian respectfully requests that Respondent's February 7, 2013 Reply be granted in its entirety and Petitioner's Motion To Strike be denied in its entirety, Respondent's Opposition To Petitioner's Motion To Strike be granted, and that Petitioner's Motion for Sanctions and Petition to Cancel both be denied in its entirety and judgment entered against Ate My Heart, Inc. and entirely in favor of Christina Sukljian.

Dated: Albany, New York

Respectfully Submitted,

March 1, 2013

By:



/Christina Sukljian/

Christina Sukljian

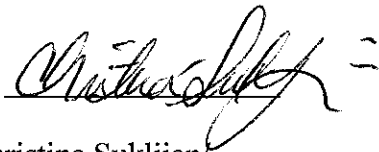
GAGA PURE PLATINUM

13 Manor Street

Albany, New York 12207

CERTIFICATE OF PROOF OF SERVICE

I hereby certify that a true and correct copy of the foregoing **RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION TO STRIKE SUKLJIAN'S SURREPLY** has been served on Ate My Heart, Inc. by mailing said copy on March 1, 2013 via The United States Postal Service Priority Mail with Signature Confirmation in a USPS Priority Mail Envelope postage prepaid to: Ate My Heart, Inc. c/o Pryor Cashman LLP, 7 Times Square, New York, NY 10036.

By: 
/Christina Sukljian/

Christina Sukljian

13 Manor Street

Albany, NY 12207

Date of Deposit: March 1, 2013
USPS Priority Mail

CERTIFICATE OF MAILING THROUGH ESTTA

I, Christina Sukljian, hereby certify that this **RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION TO STRIKE SUKLJIAN'S SURREPLY** is being filed electronically through ESTTA with The Trademark Trial And Appeal Board, United States Patent And Trademark Office, Alexandria, VA 22313-1451 on the date indicated below.

Date of Deposit: March 1, 2013

Signed: /Christina Sukljian/

A handwritten signature in black ink, appearing to read 'Christina Sukljian', with a stylized flourish at the end.

EXHIBIT A

Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:
9410 8036 9930 0030 4090 80

Paid Online

Transaction #:	229801912	Priority Mail® Postage:	\$4.90
Print Date:	04/13/2012	Signature Confirmation:	\$2.10
Ship Date:	04/13/2012	(Electronic Rate)	
Weight:	0 lb 6 oz	Total:	\$7.00

From: CHRISTINA SUKLJIAN
13 MANOR ST
ALBANY NY 12207-3008

To: ATE MY HEART, INC. C/O PRYOR CASHMAN LLP.
7 TIMES SQ
NEW YORK NY 10036-6524

* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 10 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



Thank you for shipping with the United States Postal Service!
Check the status of your shipment on the Track & Confirm page at usps.com

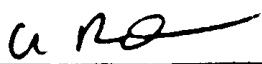


Date: 02/18/2013

CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0030 4090 80. The delivery record shows that this item was delivered on 04/16/2012 at 02:32 PM in NEW YORK, NY 10036 to A RIVERA. The scanned image of the recipient information is provided below.

Signature of Recipient:

Delivery Section	
Signature	
Delivered to	A Rivera

Address of Recipient:

Delivery address	7 Times Square. (3)
------------------	---------------------

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
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5. Mail your package on the "Ship Date" you selected when creating this label.

Online Label Record (Label 1 of 1)

Adult Signature Number:

9468 1036 9930 0000 2146 29

Paid Online

Transaction #:	231195561	Priority Mail® Postage:	\$4.90
Print Date:	05/01/2012	Adult Signature:	<u>\$4.75</u>
Ship Date:	05/01/2012	Total:	<u>\$9.65</u>
Weight:	1 lb 1 oz		

From: CHRISTINA SUKLJIAN
13 MANOR ST
ALBANY NY 12207-3008

To: ATE MY HEART, INC.
C/O PRYOR CASHMAN, LLP.
7 TIMES SQ
NEW YORK NY 10036-6524

* Commercial Base Pricing Priority Mail rates apply. There is no fee for Delivery Confirmation service on Priority Mail service with use of this electronic rate shipping label. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 10 days from the print date.

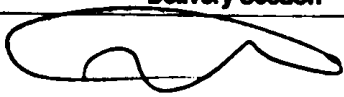


Date: 02/18/2013

CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Adult Sig(TM) item number 9468 1036 9930 0000 2146 29. The delivery record shows that this item was delivered on 05/04/2012 at 02:20 PM in NEW YORK, NY 10036 to C JACKSON. The scanned image of the recipient information is provided below.

Signature of Recipient:

Delivery Section	
Signature	
Address	C. JACKSON 3rd

Address of Recipient:

Address	7 TIMES SQUARE PARK
---------	---------------------

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Sincerely,

United States Postal Service

Instructions

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5. Mail your package on the "Ship Date" you selected when creating this label.

Online Label Record (Label 1 of 1)

Adult Signature Number:

9468 1036 9930 0000 2248 02

Paid Online

Transaction #: 232252628

Print Date: 05/14/2012

Ship Date: 05/14/2012

Weight: 1 lb 1 oz

Priority Mail® Postage: **\$4.90**

Adult Signature: **\$4.75**

Total: **\$9.65**

From: CHRISTINA SUKLJIAN
13 MANOR ST
ALBANY NY 12207-3008

To: ATE MY HEART INC.
C/O PRYOR CASHMAN LLP
7 TIMES SQ
NEW YORK NY 10036-6524

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Date: 02/18/2013

CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Adult Sig(TM) item number 9468 1036 9930 0000 2248 02. The delivery record shows that this item was delivered on 05/16/2012 at 02:15 PM in NEW YORK, NY 10036 to A RIVERA. The scanned image of the recipient information is provided below.

Signature of Recipient:

A scanned image of a signature on a delivery record. The signature is handwritten in black ink and appears to read "A Rivera". The background is a light gray with some horizontal lines and a small "11" in the upper right corner.

Address of Recipient:

A scanned image of a handwritten address on a delivery record. The address is "2 Times Sq. (3)". The background is a light gray with some horizontal lines.

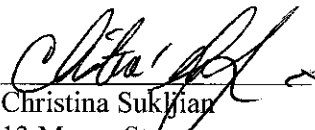
Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

CERTIFICATE OF PROOF OF SERVICE

I hereby certify that a true and correct copy of the foregoing CHANGE OF CORRESPONDENCE ADDRESS has been served on Ate My Heart, Inc. by mailing said copy on November 13, 2012 via The United States Postal Service First Class Mail in a postage prepaid envelope to Defendant at the following address: Ate My Heart, Inc. c/o Pryor Cashman LLP, 7 Times Square, New York, NY 10036.


Christina Sukhian
13 Manor Street
Albany, NY 12207

Date of Deposit: November 13, 2012
USPS First Class Mail

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Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

9410 8036 9930 0037 4069 21

Paid Online

Transaction #: 247683731

Print Date: 11/23/2012

Ship Date: 11/23/2012

Priority Mail® Postage: **\$4.90**

Signature Confirmation: **\$2.10**

(Electronic Rate)

Total: **\$7.00**

From: CHRISTINA SUKLJIAN
13 MANOR ST
ALBANY NY 12207-3008

To: ATE MY HEART, INC.
C/O PRYOR CASHMAN, LLP.
7 TIMES SQ
NEW YORK NY 10036-6524

* Commercial Base Pricing Priority Mail rate apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



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Check the status of your shipment on the Track & Confirm page at usps.com

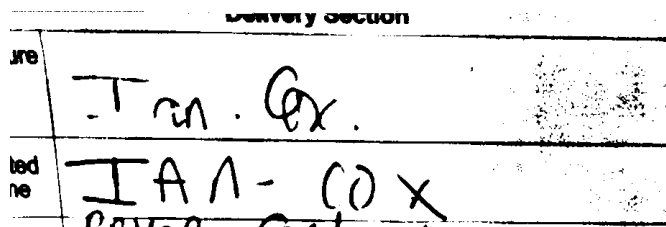


Date: 02/19/2013

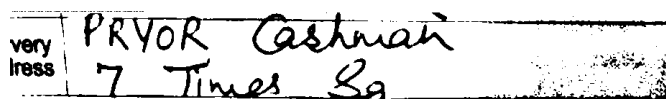
CHRISTINA S:

The following is in response to your 02/19/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0037 4069 21. The delivery record shows that this item was delivered on 11/26/2012 at 03:26 PM in NEW YORK, NY 10036 to I COX. The scanned image of the recipient information is provided below.

Signature of Recipient:



Address of Recipient:



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Sincerely,

United States Postal Service

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5. Mail your package on the "Ship Date" you selected when creating this label.

Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

9410 8036 9930 0037 4070 27

Paid Online

Transaction #: 247683903

Print Date: 11/23/2012

Ship Date: 11/24/2012

Priority Mail® Postage: **\$4.90**

Signature Confirmation: **\$2.10**

(Electronic Rate)

Total: **\$7.00**

From: CHRISTINA SUKLJIAN
13 MANOR ST
ALBANY NY 12207-3008

To: ATE MY HEART, INC.
C/O PRYOR CASHMAN, LLP.
7 TIMES SQ
NEW YORK NY 10036-6524

* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



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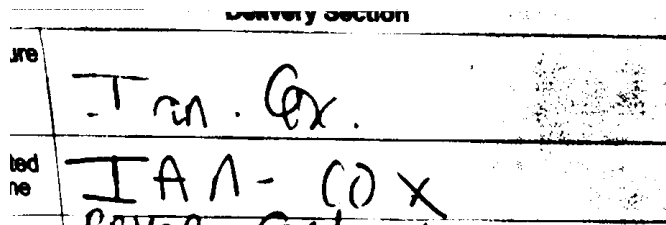


Date: 02/18/2013

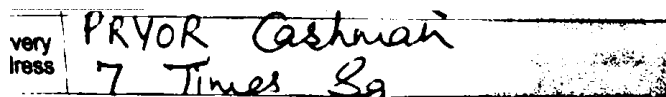
CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0037 4070 27. The delivery record shows that this item was delivered on 11/26/2012 at 03:26 PM in NEW YORK, NY 10036 to I COX. The scanned image of the recipient information is provided below.

Signature of Recipient:



Address of Recipient:



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Sincerely,

United States Postal Service

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5. Mail your package on the "Ship Date" you selected when creating this label.

Online Label Record (Label 1 of 2)

Delivery Confirmation™ Number:
9405 5036 9930 0213 1420 60

Paid Online

Transaction #: 247856108

Print Date: 11/26/2012

Ship Date: 11/26/2012

Priority Mail® Postage: **\$4.90**

Total: **\$4.90**

From: CHRISTINA SUKLJIAN
13 MANOR ST
ALBANY NY 12207-3008

To: ATE MY HEART INC.
C/O PRYOR CASHMAN LLP
7 TIMES SQ
NEW YORK NY 10036-6524

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POSTAL SERVICE®**

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Track & Confirm

[GET EMAIL UPDATES](#)[PRINT DETAILS](#)**YOUR LABEL NUMBER**

9405503699300213142060

SERVICE

Priority Mail®

STATUS OF YOUR ITEM

Delivered

DATE & TIME

November 28, 2012, 9:50 am

LOCATION

NEW YORK, NY 10036

FEATURES

Expected Delivery By:
November 28, 2012
USPS Tracking / Delivery
Confirmation™

Arrival at Post Office

November 28, 2012, 6:21 am

NEW YORK, NY 10036

Depart USPS Sort
Facility

November 27, 2012

SPRINGFIELD, MA 01152

Processed at USPS
Origin Sort Facility

November 28, 2012, 11:30 pm

SPRINGFIELD, MA 01152

Accepted at USPS
Origin Sort Facility

November 28, 2012, 10:15 pm

ALBANY, NY 12207

Shipment Accepted

November 28, 2012, 4:58 pm

ALBANY, NY 12207

Electronic Shipping Info
Received

November 28, 2012

Check on Another Item

What's your label (or receipt) number?

[Find](#)[LEGAL](#)[ON USPS.COM](#)[ON ABOUT.USPS.COM](#)[OTHER USPS SITES](#)

Instructions

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5. Mail your package on the "Ship Date" you selected when creating this label.

Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

9410 8036 9930 0037 8384 25

Paid Online

Transaction #: 248865544

Print Date: 12/05/2012

Ship Date: 12/05/2012

Priority Mail® Postage: **\$4.90**

Signature Confirmation: **\$2.10**

(Electronic Rate)

Total: **\$7.00**

From: CHRISTINA SUKLJIAN
13 MANOR ST
ALBANY NY 12207-3008

To: ATE MY HEART, INC.
C/O PRYOR CASHMAN, LLP
7 TIMES SQ
NEW YORK NY 10036-6524

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**UNITED STATES
POSTAL SERVICE®**

*Thank you for shipping with the United States Postal Service!
Check the status of your shipment on the Track & Confirm page at usps.com*



Date: 02/18/2013

CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0037 8384 25. The delivery record shows that this item was delivered on 12/10/2012 at 03:45 PM in NEW YORK, NY 10036 to L ZAYAS. The scanned image of the recipient information is provided below.

Signature of Recipient:

A scanned image of a signature. The signature is written in cursive and reads "L. ZAYAS". To the left of the signature, there is a vertical line with the word "Signature" written vertically. The background of the scan is dark and grainy.

Address of Recipient:

A scanned image of a handwritten address. The address is "7 Times Sq. (3) Pryor.". To the left of the address, there is a vertical line with the word "Address" written vertically. The background of the scan is dark and grainy.

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
3. Adhere your label to the package. A self-adhesive label is recommended. If tape or glue is used, **DO NOT TAPE OVER BARCODE.** Be sure all edges are secure.
4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

9410 8036 9930 0037 8609 52

Paid Online

Transaction #: 248930897

Print Date: 12/06/2012

Ship Date: 12/06/2012

Priority Mail® Postage: **\$4.90**

Signature Confirmation: **\$2.10**

(Electronic Rate)

Total: **\$7.00**

From: CHRISTINA SUKLJIAN
13 MANOR ST
ALBANY NY 12207-3008

To: ATE MY HEART INC
C/O PRYOR CASHMAN LLP
7 TIMES SQ
NEW YORK NY 10036-6524

* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



Thank you for shipping with the United States Postal Service!
Check the status of your shipment on the Track & Confirm page at usps.com



Date: 02/27/2013

CHRISTINA S:

The following is in response to your 02/27/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0037 8609 52. The delivery record shows that this item was delivered on 12/10/2012 at 03:45 PM in NEW YORK, NY 10036 to L ZAYAS. The scanned image of the recipient information is provided below.

Signature of Recipient:

A scanned image of a signature. The signature is written in cursive and reads "L. ZAYAS". To the left of the signature, there is a vertical line with the word "Signature" written vertically. The background of the scan is dark and noisy.

Address of Recipient:

A scanned image of a handwritten address. The address is "7 Times Sq. (3) Pryor.". To the left of the address, there is a vertical line with the word "Address" written vertically. The background of the scan is dark and noisy.

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

Instructions

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5. Mail your package on the "Ship Date" you selected when creating this label.

Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

9410 8036 9930 0038 8371 20

Paid Online

Transaction #: 252142739

Print Date: 01/04/2013

Ship Date: 01/04/2013

Priority Mail® Postage: **\$4.90**

Signature Confirmation: **\$2.10**

(Electronic Rate)

Total: **\$7.00**

From: CHRISTINA SUKLJIAN
13 MANOR ST
ALBANY NY 12207-3008

To: ATE MY HEART INC
C/O PRYOR CASHMAN LLP
7 TIMES SQ
NEW YORK NY 10036-6524

* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



Thank you for shipping with the United States Postal Service!
Check the status of your shipment on the Track & Confirm page at usps.com

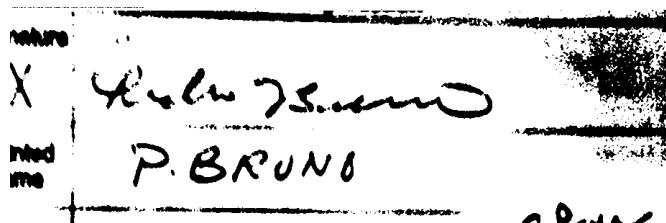


Date: 02/19/2013

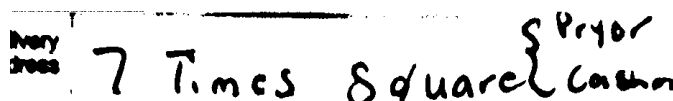
CHRISTINA S:

The following is in response to your 02/19/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0038 8371 20. The delivery record shows that this item was delivered on 01/07/2013 at 02:37 PM in NEW YORK, NY 10036 to P BRUNO. The scanned image of the recipient information is provided below.

Signature of Recipient:



Address of Recipient:



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
2. Place your label so it does not wrap around the edge of the package.
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4. To mail your package with PC Postage®, you may schedule a Carrier Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

9410 8036 9930 0039 4698 70

Paid Online

Transaction #: 253810614

Print Date: 01/23/2013

Ship Date: 01/23/2013

Priority Mail® Postage: **\$4.90**

Signature Confirmation: **\$2.10**

(Electronic Rate)

Total: **\$7.00**

From: CHRISTINA SUKLJIAN
13 MANOR ST
ALBANY NY 12207-3008

To: ATE MY HEART INC
C/O PRYOR CASHMAN LLP
7 TIMES SQ
NEW YORK NY 10036-6524

* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



Thank you for shipping with the United States Postal Service!
Check the status of your shipment on the Track & Confirm page at usps.com



Date: 02/19/2013

CHRISTINA S:

The following is in response to your 02/19/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0039 4698 70. The delivery record shows that this item was delivered on 01/25/2013 at 03:40 PM in NEW YORK, NY 10036 to C COLEMAN. The scanned image of the recipient information is provided below.

Signature of Recipient:

A scanned image of a handwritten signature in black ink on a white background. The signature appears to be "C. Coleman" with a horizontal line drawn through the middle of the name.

Address of Recipient:

A scanned image of a handwritten address in black ink on a white background. The address is "1111 1st St (B) NYC".

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
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5. Mail your package on the "Ship Date" you selected when creating this label.

Online Label Record (Label 1 of 1)

Signature Confirmation™ Number:

9410 8036 9930 0039 5578 98

Paid Online

Transaction #: 254023805

Print Date: 01/25/2013

Ship Date: 01/25/2013

Priority Mail® Postage: **\$4.90**

Signature Confirmation: **\$2.10**

(Electronic Rate)

Total: **\$7.00**

From: CHRISTINA SUKLJIAN
13 MANOR ST
ALBANY NY 12207-3008

To: ATE MY HEART INC
C/O PRYOR CASHMAN LLP
7 TIMES SQ
NEW YORK NY 10036-6524

* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



Thank you for shipping with the United States Postal Service!
Check the status of your shipment on the Track & Confirm page at usps.com

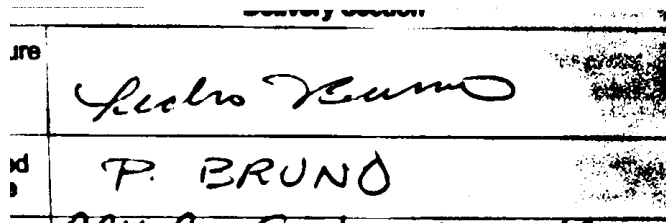


Date: 02/18/2013

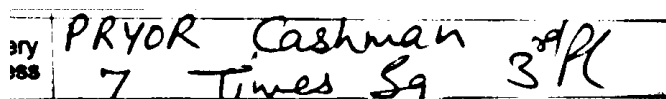
CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0039 5578 98. The delivery record shows that this item was delivered on 01/28/2013 at 02:52 PM in NEW YORK, NY 10036 to P BRUNO. The scanned image of the recipient information is provided below.

Signature of Recipient:



Address of Recipient:



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

Instructions

1. Each Click-N-Ship® label is unique. Labels are to be used as printed and used only once. **DO NOT PHOTO COPY OR ALTER LABEL.**
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4. To mail your package with PC Postage®, you may schedule a Package Pickup online, hand to your letter carrier, take to a Post Office™, or drop in a USPS collection box.
5. Mail your package on the "Ship Date" you selected when creating this label.

Online Label Record (Label 1 of 2)

Signature Confirmation™ Number:

9410 8036 9930 0040 0238 70

Paid Online

Transaction #: 255228695

Print Date: 02/07/2013

Ship Date: 02/07/2013

Priority Mail® Postage: **\$5.05**

Signature Confirmation: **\$2.20**

(Electronic Rate)

Total: **\$7.25**

From: CHRISTINA SUKLJIAN
13 MANOR ST
ALBANY NY 12207-3008

To: ATE MY HEART INC
C/O PRYOR CASHMAN LLP
7 TIMES SQ
NEW YORK NY 10036-6524

* Commercial Base Pricing Priority Mail rates apply. Signature Confirmation service electronic fee required. Delivery information is not available by phone for the electronic rate. Refunds for unused postage paid labels can be requested online 30 days from the print date. A copy of the recipient's signature will be faxed or mailed upon request by visiting the web site listed below or calling 1-800-222-1811.



Thank you for shipping with the United States Postal Service!
Check the status of your shipment on the Track & Confirm page at usps.com



Date: 02/18/2013

CHRISTINA S:

The following is in response to your 02/18/2013 request for delivery information on your Signature Confirmation(TM) item number 9410 8036 9930 0040 0238 70. The delivery record shows that this item was delivered on 02/11/2013 at 03:36 PM in NEW YORK, NY 10036 to L ZAYAS. The scanned image of the recipient information is provided below.

Signature of Recipient:

A scanned image of a signature. The signature is handwritten in black ink and appears to read "L. ZAYAS". To the left of the signature, there is a vertical line with the word "SIGNATURE" printed vertically. The background of the scan is grainy and black and white.

Address of Recipient:

A scanned image of a handwritten address. The address is written in black ink and appears to read "77 Times Sq. (3) NYC". To the left of the address, there is a vertical line with the word "ADDRESS" printed vertically. The background of the scan is grainy and black and white.

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

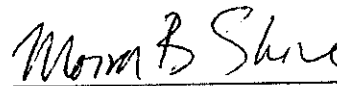
United States Postal Service

EXHIBIT B

CERTIFICATE OF SERVICE BY FEDEX

I hereby certify that a true and correct copy of PETITION FOR CANCELLATION is being sent by Fedex and addressed to registrant, on March 5, 2012 at the following address:

Sukljian, Christina
13 Manor Street
Albany, NY 12207


Moira B Shine

CERTIFICATE OF MAILING THROUGH ESTTA

I, Moira B Shine, hereby certify that this PETITION FOR CANCELLATION is being filed electronically through ESTTA with The Trademark Trial And Appeal Board, United States Patent And Trademark Office, Alexandria, VA 22313-1451 on the date indicated below.

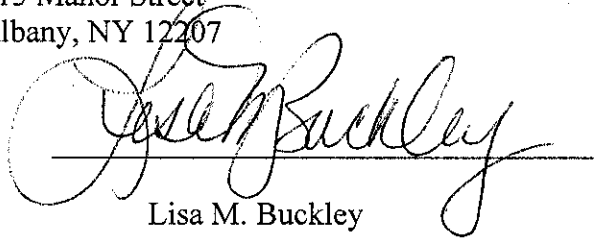
Date of deposit: March 5, 2012

Signed: 

CERTIFICATE OF SERVICE

I certify that on June 28, 2012, a true and correct copy of the foregoing PETITIONER'S FIRST SET OF INTERROGATORIES is being mailed by first class mail, postage prepaid to Respondent at the following address:

Christina Sukljian
13 Manor Street
Albany, NY 12207

A handwritten signature in black ink, appearing to read "Lisa M. Buckley", is written over a horizontal line. The signature is stylized with large, flowing loops.

Lisa M. Buckley

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of U.S. Registration No. 2,898,544 for
GAGA PURE PLATINUM

-----X		
Ate My Heart Inc.	:	
	:	
Petitioner,	:	
	:	
-against-	:	Cancellation No. 92055279
	:	
Christina Sukljian,	:	
	:	
Respondent	:	
-----X		

PETITIONER'S INITIAL DISCLOSURES

Petitioner Ate My Heart Inc. (hereinafter "Petitioner" or "AMH") by its attorneys, Pryor Cashman LLP, and in accordance with 37 C.F.R. 2.120 and Rule 26(a)(1) of the Federal Rules of Civil Procedure, provide the following initial disclosures to Christina Sukljian (hereinafter "Respondent"), subject to the following general qualifications:

1. Petitioner's initial disclosures are based on information available to Petitioner at this point in time and are made without waiver of any statutory, common law or other privilege or protection against disclosure and/or any objection as to admissibility or relevance of such evidence in this proceeding or in any other proceeding.
2. Petitioner's identification of individuals herein is made without waiver of the right to object, on any grounds, to the particular testimony of any individual.
3. Petitioner's identification of documents herein is based on information available to Petitioner at this point in time and is made without waiver of the right to object to the relevance or appropriateness of any document and/or the right to object to any document

8. Documents concerning the fame and notoriety of LADY GAGA.

Dated: New York, New York
August 8, 2012

PRYOR CASHMAN LLP

By: 

Brad D. Rose
Nicole E. Kaplan

Pryor Cashman LLP
7 Times Square
New York, New York 10036
(212) 421-4100

Attorneys for Petitioner
Ate My Heart, Inc.

CERTIFICATE OF SERVICE

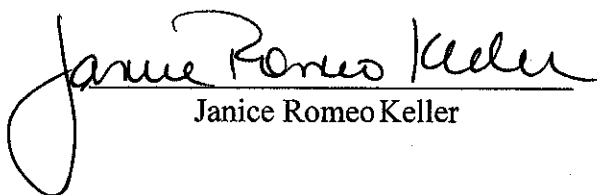
I certify that a true and correct copy of the foregoing:

MOTION TO COMPEL RESPONDENT TO: (A) PROVIDE ANSWERS
TO PETITIONER'S FIRST SET OF INTERROGATORIES;
(B) PRODUCE DOCUMENTS IN RESPONSE TO
PETITIONER'S FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS AND
(C) TO SERVE PETITIONER WITH RESPONDENT'S INITIAL DISCLOSURES

is being mailed by first class mail, postage prepaid to Respondent at the following address:

Christina Sukljan
13 Manor Street
Albany, NY 12207

Dated: New York, New York
September 20 , 2012


Janice Romeo Keller

party continually avoids discovery, the Board will enter a default judgment against the disobedient party. See, e.g., Unicut Corporation v. Unicut, Inc., 220 USPQ 1013 (TTAB 1983); Wahl v. Fusco, 39 U.S.P.Q.2d 1223 (TTAB 1996) (judgment of cancellation granted for registrant's failure to respond to discovery; registrant was non-responsive and ignored the Board's instructions). Judgment against Respondent is appropriate and necessary as a result of Respondent's willful evasion of its obligations under the Federal Rules and TBMP as well as its blatant disregard of the Board's Order.¹

WHEREFORE, for the reasons set forth herein, AMH's motion for sanctions should be granted in its entirety and judgment entered against Respondent and in favor of AMH.

Dated: New York, New York
December 19, 2012

Respectfully submitted,

PRYOR CASHMAN LLP

By: 

Brad D. Rose

Nicole E. Kaplan

Stephanie R. Kline

Attorneys for Petitioner, Ate My Heart, Inc.

7 Times Square

New York, New York 10036

(212) 421-4100

¹ As of December 12, 2012, this proceeding was consolidated with Respondent's Opposition Proceeding, No. 91205046. As such, AMH respectfully requests that judgment against Respondent be effected as to both this Cancellation Proceeding as well as Respondent's Opposition Proceeding.

good declared as intent-to-use in commerce under Application Serial No. 85215017.

RESPONSE TO DOCUMENT REQUEST NO. 63:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome. Subject to and without waiving the foregoing objections, Defendant responds that there are no documents responsive to this Request in its possession, custody or control.

DOCUMENT REQUEST NO. 64:

All documents and things that Defendant intends to rely on during the testimony and trial periods in the Action.

RESPONSE TO DOCUMENT REQUEST NO. 64:

Defendant objects to this Request for the reasons set forth in the General Objections and specifically to the extent that it is overly broad and unduly burdensome and to the extent it violates the work-product immunity doctrine and/or attorney client privilege. Defendant also objects to this Request on the ground that it is premature at this stage of the proceeding. Subject to and without waiving the foregoing objections, Defendant responds that it will produce responsive, non-privileged documents in its possession, custody or control, if any.

Dated: December 28, 2012

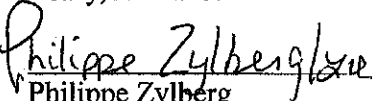
Respectfully submitted,

By Philippe Zylberg
Brad D. Rose, Esq.
Nicole E. Kaplan, Esq.
Philippe Zylberg, Esq.
Pryor Cashman LLP
7 Times Square
New York, NY 10036
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing RESPONSE TO PLAINTIFF'S
FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS upon Defendant by
mailing a copy thereof via overnight mail, FedEx on December 28, 2012 to:

Christina Sukjian
13 Manor Street
Albany, NY 12207


Philippe Zylberg

Dated: New York, New York
February 12, 2013

Respectfully submitted,

PRYOR CASHMAN LLP

By: 

Brad D. Rose

Lisa M. Buckley

Nicole E. Kaplan

Attorneys for Ate My Heart, Inc.

7 Times Square

New York, New York 10036

(212) 421-4100

CERTIFICATE OF SERVICE

I certify that on February 12, 2013, a true and correct copy of the foregoing **REPLY TO SUKLJIAN'S OPPOSITION TO AMH'S MOTION TO COMPEL AND OPPOSITION TO SUKLJIAN'S MOTION TO COMPEL** was mailed via overnight mail, FedEx to:

Christina Sukljian
13 Manor Street
Albany, NY 12207

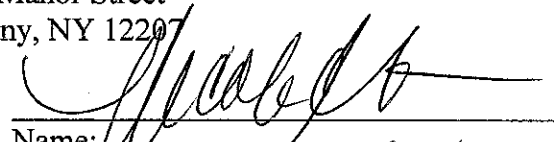

Name: Philippe Zylberg

CERTIFICATE OF SERVICE

I certify that on Jan. 23, 2013, a true and correct copy of the foregoing **REPLY TO RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH THE BOARD'S DISCOVERY ORDER AND REQUEST FOR JUDGMENT** was mailed by Express Mail, postage prepaid to:

Christina Sukljian
13 Manor Street
Albany, NY 12207

Name: _____


Nicole E. Kaplan